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FISCAL IMPACT STATEMENT

LS 6237

BILL NUMBER: SB 147

NOTE PREPARED: Nov 13, 2003

BILL AMENDED:

SUBJECT: Indiana Utility Regulatory Commission Enforcement Authority.

FIRST AUTHOR: Sen. Lanane

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill allows the Indiana Utility Regulatory Commission (IURC) to impose on a utility that violates state utility law or fails to comply with an IURC order:

- (1) a civil penalty of not more than \$25,000 per violation;
- (2) a cease and desist order;
- (3) an order for corrective action; or
- (4) the revocation or modification of certain certificates and permits.

The bill authorizes the Attorney General to bring an action to enforce any of those penalties.

It also allows the IURC, for violations of telecommunications slamming and cramming laws, to impose only those civil penalties allowed under current law. The bill authorizes the IURC to direct a utility to provide service within 24 hours if the IURC determines that the service is necessary to prevent injury or to alleviate an emergency. The bill repeals a superseded statute concerning the IURC's enforcement powers.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *IURC:* This proposal extends the IURC's enforcement power over regulated Indiana utilities, giving the IURC the authority to impose civil penalties, issue certain orders, and modify permits issued by the Commission. While this bill would make more options available to the IURC in the event of a regulated utility's violation or act of noncompliance, it is not expected to cause additional procedures or expenditures for the Commission.

Attorney General's Office: The proposal also authorizes the Attorney General to bring a court action to enforce a Commission order or to collect an unpaid civil penalty. Any increase in the Office's administrative burden will be contingent on the number of court actions required.

Explanation of State Revenues: This bill authorizes the IURC, after notice and hearing, to impose a penalty of up to \$25,000 on a utility for each violation or act of noncompliance against a Commission order. The IURC may consider each day a separate violation in cases where a utility fails to follow a Commission order in situations in which the Commission has determined that the provision of the utility services is necessary to prevent injury or alleviate an emergency. It is not known in how many instances the IURC would impose monetary penalties.

Civil penalties imposed under this bill would be deposited in the Public Utility Fund. The IURC and Office of the Utility Consumer Counselor (OUCC) are funded from the Public Utility Fund.

The penalty provisions authorized by this bill would not change the civil penalties allowed for violations of laws related to slamming and cramming by telecommunication providers. Penalties assessed against violators of slamming and cramming provisions are deposited in the state General Fund.

Background on IURC and OUCC Funding: The operating budgets of the IURC and OUCC are funded by regulated utilities operating in Indiana from the Public Utility Fund. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2003, fees from the utilities and fines generated approximately \$10.9 M.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Attorney General's Office.

Information Sources:

Fiscal Analyst: John Parkey, 317-232-9854.